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Letter dated 5 July 2004 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

The Governing Council of the United Nations Compensation Commission has concluded its fifty-second session, which was held at Geneva from 29 June to 2 July 2004. The Committee on Administrative Matters held its sixteenth meeting on 2 July 2004.

During the opening plenary meeting of the fifty-second session representatives of Kuwait, Saudi Arabia and Lebanon addressed the Council. Their statements are being sent by mail with the original of this letter.

During the session the Council considered four reports and recommendations made by the Panels of Commissioners in the D and E4 categories of claims. The reports on category D claims concern the review of individual claims for damages above $100,000; one of those reports also reviews 30 category C claims. The report on the twenty-eighth instalment of category E4 claims concerns the review of regular E4 Kuwaiti corporate claims, stand-alone claims filed by individuals seeking compensation for direct losses sustained by Kuwaiti companies and two E2 claims (transferred from category D) that were reviewed by the E4 Panel, as the E2 Panels have concluded their work. The report on the twenty-ninth instalment of E4 category claims concerns the review of stand-alone claims. The attached tables provide details of the amounts of compensation claimed in the reports and the amounts awarded by the Governing Council. The total amount awarded in all of the reports approved at this session is US$ 380,532,962.70.

The Governing Council considered the report of the Executive Secretary: summary of activities, covering the period from 1 February to 30 April 2004. The report covers the processing of claims, the withdrawal of claims and the payment of approved claims.

The Council discussed the arrangements for ensuring that payments are made into the Compensation Fund in the light of information provided by the secretariat and the delegation of the United States of America. The Council took note of the information while requesting the secretariat to provide further information on this issue as it becomes available.

The Council discussed several issues relating to the processing and payment of claims, including the twenty-sixth report of the Executive Secretary pursuant to

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article 41 of the Provisional Rules for Claims Procedure, and approved corrections to certain category A, C and D claims.

After considering the issue of duplication of awards, the Council recommended that the matter be kept on its agenda for further consideration at its next session.

The Council further considered the request made by the Government of Kuwait at the forty-seventh session (March 2003) that it be permitted to file late claims on behalf of the bedoun. This issue was extensively discussed during the forty-seventh to fifty-first sessions of the Council. At the fifty-first session the Council requested the secretariat to prepare further information for the Working Group's consideration concerning options for ensuring that the processing of such claims would be completed as soon as possible, as well as the relevant financial implications.

The Working Group discussed this issue, in the light of the further information provided by the secretariat and the Government of Kuwait, including sample bedoun claims, at informal meetings held on 4, 5 and 25 May and on 8, 17 and 24 June 2004. The delegation of Kuwait was present at the meeting held on 17 June to answer the Working Group's questions on this matter.

A review conducted by the secretariat, based upon the initial sample bedoun claims submitted by Kuwait, confirmed that members of the bedoun community did indeed suffer direct losses as a result of Iraq's invasion and occupation of Kuwait. Such losses included personal property losses, loss of salary, mental pain and anguish, out-of-pocket departure costs as well as other types of losses.

Against the background of the foregoing, the Council adopted decision 225 for the purpose of creating an accelerated, special claims programme for the bedoun. Under the programme each bedoun claimant who meets the criteria set out in paragraph 1 of the decision, namely that they were 18 years of age or older as at 2 August 1990 and were residents of Kuwait, will receive a fixed award of compensation of $2,500 per claimant. Claimants will be required to affirm that they suffered direct losses as a result of Iraq's invasion and occupation of Kuwait and had no earlier opportunity to file claims with the Commission. The claimant will also be required to provide any available evidence to demonstrate such losses and the Panel of Commissioners, with the assistance of the secretariat, will examine, on a sample basis, the evidence submitted in support of the claims. In providing a fixed amount of compensation in the decision the Council noted that this amount may not necessarily provide the same compensation that the bedoun claimants could have received under the regular claims programme.

The Council considered the issue of the possible recovery of property for which compensation has been paid in the light of an information note prepared by the secretariat, and requested the secretariat to bring to the Council's attention any further relevant information on this issue.

The Council considered the amendment of environmental claims in the light of two information notes prepared by the secretariat, and referred this issue to a future informal meeting of the Working Group and kept it on the agenda of the Council.

After considering the request of the Government of Iraq for the continuation of funding for the provision of technical assistance to Iraq in its review of the remaining F4 environmental claims pursuant to Governing Council decision 124, in

an amount of $4 million, the Council adopted decision 226 for the purpose of approving the request.

The Council considered the requests made by the Governments of Saudi Arabia and Kuwait concerning the filing of 12 claims of deceased persons pursuant to decision 12 in the light of an information note prepared by the secretariat. The Council referred the 12 claims to the D1 Panel of Commissioners, and requested that the Panel determine whether the claims are eligible to be filed with the Commission pursuant to the terms of Governing Council decision 12, and that the secretariat report the Panel's findings concerning the eligibility of the claims to the Working Group. The Council also requested the Panel of Commissioners to review those claims found to be eligible for filing. The Council noted that, after the Panel's eligibility determinations, it will continue to discuss whether the special head of loss set out in Governing Council decision 218 should apply to claims found to be eligible for filing.

Following its consideration of the report of the Executive Secretary on the distribution of payments and transparency, and the return of undistributed funds, the Council took note of it and requested the secretariat to continue to inform the Council of the reports of Governments and international organizations on the distribution of payments and the return of undistributed funds.

The Council considered the issues raised in three information notes prepared by the secretariat and decided the following:

(a) With respect to the exchange rates used for claims payment by Bangladesh, that the secretariat should continue its consultations with Bangladesh and report on its progress at a future informal meeting;

(b) With respect to the payment distribution reports provided by the Government of Egypt, that the secretariat should be requested to provide an update on this issue at a future informal meeting;

(c) With respect to unlocated claimants, that this matter should be referred to a future informal meeting.

The Council also decided to keep the above-mentioned matters on its agenda.

Given the current level of income to the Compensation Fund, the Council decided to defer consideration of the issue of the payment of environmental claims to a future session.

The Council also deliberated upon the monitoring of the use of compensation awards in the light of a request made by the Governments of Kuwait and Saudi Arabia relating to the Panel's recommended remediation methods on the basis of which the Governing Council approved such awards, and in the light of the letter from the Government of Iraq, dated 16 December 2003. The Council referred this issue to an informal meeting of the Working Group, pending the receipt of information on this matter requested from the F4 Panel of Commissioners.

The Council considered the issue of the continuation of the temporary payment mechanism contained in decision 197 and adopted decision 227 for the purpose of continuing that mechanism, according to which $200 million is made available for the payment of awards to successful claimants.

The Council considered the issues of interest on awards of compensation and claims preparation costs in the light of information notes prepared by the secretariat, and referred these matters to a future informal meeting of the Working Group and decided to keep them on the Council's agenda.

The Council considered the issue of the deadline for the filing of claims with the Commission under paragraph 1(b) of decision 12 of the Governing Council, which concerns claims of individuals who have been detained in Iraq. The Council set the final deadline for the filing of such claims at 30 September 2004.

After discussing the request made by the Government of Lebanon at the opening plenary meeting that the Council accept for late filing 32 claims of individuals, the Council recalled its decision 219, which provides that the Council will not consider or accept any further requests for the late filing of claims in any claims category, and decided not to accept this request.

The Council considered the information provided by the Palestinian Authority concerning 95 claims that were misplaced during the filing programme and referred this issue to the Palestinian late claims Panel of Commissioners for a case-by-case assessment as to the claims' eligibility for participation in the programme.

The Council received and took note of the report of the Committee on Administrative Matters, which contained details of the discussions held during the Committee's meeting on 2 July 2004. At that meeting the Committee decided to fund the technical assistance to Iraq for its review of the remaining F4 environmental claims, pursuant to decision 226, from the available funds in the Commission's operating reserve. The Committee also approved additional funds on an interim basis to allow claims processing work to proceed on the claims accepted for late filing by the Governing Council at its fifty-first session from a number of Governments, as well as the claims of the bedoun accepted for late filing by the Governing Council at its fifty-second session. The Committee will consider the overall staffing and financial considerations arising from these programmes at its next meeting in the light of a comprehensive report to be provided by the secretariat in advance of the meeting.

Finally, the Governing Council decided to hold its fifty-third session from 21 to 23 September 2004.

To date, the Commission has awarded compensation of approximately $48.6 billion, including the awards approved in the fifty-second session, and approximately $18.4 billion of the amounts awarded have been made available to Governments and international organizations for distribution to successful claimants in all categories of claims. The payments to successful claims approved by the Council at the fifty-second session will be made in the next round of payments, in accordance with Governing Council decision 227, scheduled for 29 July 2004. On 24 June 2004 the balance of the Compensation Fund was approximately $295 million.

(*Signed*) Michael **Steiner**
President of the Governing Council

Annex I

Summary of recommendations

A. Report and recommendations made by the D2 Panel of Commissioners concerning part two of the eighteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2004/5)

Country or international organization	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Algeria	-	1	517 301.02	nil
Argentina	1	-	555 873.00	148 555.62
Bahrain	-	2	5 997 440.00	nil
Canada	7	2	4 375 940.66	805 685.77
Cyprus	-	1	5 222 000.00	nil
Denmark	1	-	87 044.98	13 829.47
Egypt	8	1	42 137 666.62	2 381 964.58
France	1	1	1 176 840.90	56 085.46
Germany	1	-	682 803.71	10 600.00
Greece	1	1	971 583.47	47 299.88
India	7	3	12 523 464.06	3 239 303.85
Japan	1	-	326 025.95	66 232.84
Jordan	104	18	141 872 842.78	21 914 073.85
Kuwait	125	30	166 860 132.88	83 921 501.49
Lebanon	2	1	1 393 359.28	545 671.48
Pakistan	8	1	3 638 434.27	358 711.40
Saudi Arabia	2	2	1 229 175.44	81 376.28
Somalia	1	-	184 221.45	123 796.82
Sudan	2	-	3 832 114.57	108 096.23
Syrian Arab Republic	3	-	1 658 778.13	1 049 310.69
Tunisia	1	-	6 404 375.00	227 975.30
United Kingdom	8	3	5 180 231.51	1 255 163.53
United States	8	2	9 177 311.07	2 747 393.77
Yemen	8	1	12 311 683.50	5 083 057.03
UNDP Kuwait	1	-	207 311.42	86 837.11
UNDP United Arab Emirates	1	-	4 440 170.00	2 790 246.86
UNDP Washington	2	1	350 167.82	48 695.77
UNHCR Canada	1	-	1 940 575.30	99 138.10
UNRWA Gaza	1	-	120 415.22	10 276.82
Total	**306**	**71**	**435 375 284.01**	**127 220 880.00**

B. Report and recommendations made by the D1 Panel of Commissioners concerning part two of the nineteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2004/6)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Brazil	1	-	327 030.00	10 990.00
Canada	1	1	400 584.64	2 462.13
Egypt	1	3	108 288.58	96 997.00
Germany	1	-	1 752 137.00	736 208.63
India	14	3	9 776 111.34	1 300 746.62
Ireland	-	1	331 849 315.07	nil
Jordan	66	14	72 151 698.05	15 854 602.71
Kuwait	164	9	262 771 436.07	132 389 307.61
Lebanon	4	-	3 109 753.23	663 695.91
Pakistan	12	-	4 695 198.44	1 276 979.37
Philippines	2	-	1 073 653.91	177 471.85
Saudi Arabia	2	1	2 190 907.52	38 376.10
Syrian Arab Republic	3	1	1 182 225.00	177 001.32
Turkey	1	-	546 026.00	386 756.50
United Kingdom	2	-	1 362 224.79	189 763.52
United States	2	-	1 833 930.00	330 574.98
Yemen	61	15	49 638 141.14	14 465 794.45
Total	**337**	**48**	**746 768 660.78**	**168 097 728.70**

C. Report and recommendations made by the Panel of Commissioners concerning the twenty-eighth instalment of E4 claims (S/AC.26/2004/7)

Table 1
Recommended awards for stand-alone claims

Number of Kuwaiti corporate claims recommended for payment	*Number of Kuwaiti corporate claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
50	7	108 386 747	26 511 063

Table 2
Recommended awards for E4 Kuwaiti corporate claims

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	3	-	1 501 570.93	618 879

Table 3
Recommended awards for E2 corporate claims

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
France	1	-	26 402	1 650
Jordan	-	1	40 700	nil
Total	**1**	**1**	**67 102**	**1 650**

D. Report and recommendations made by the Panel of Commissioners concerning the twenty-ninth instalment of E4 claims (S/AC.26/2004/8)

Recommended awards for stand-alone claims

Number of Kuwaiti corporate claims recommended for payment	*Number of Kuwaiti corporate claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
114	9	170 535 885	58 703 291

Annex II

Documents before the Governing Council at its fifty-second session

1. Report and recommendations made by the D2 Panel of Commissioners concerning part two of the eighteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2004/5).
2. Decision concerning part two of the eighteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/Dec.220 (2004)).
3. Report and recommendations made by the D1 Panel of Commissioners concerning part two of the nineteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2004/6).
4. Decision concerning part two of the nineteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/Dec.221 (2004)).
5. Report and recommendations made by the Panel of Commissioners concerning the twenty-eighth instalment of E4 claims (S/AC.26/2004/7).
6. Decision concerning the twenty-eighth instalment of E4 claims (S/AC.26/Dec.222 (2004)).
7. Report and recommendations made by the Panel of Commissioners concerning the twenty-ninth instalment of E4 claims (S/AC.26/2004/8).
8. Decision concerning the twenty-ninth instalment of E4 claims (S/AC.26/Dec.223 (2004)).
9. Twenty-sixth report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/2004/9).
10. Decision concerning corrections of awards pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.224 (2004)).
11. Decision concerning the filing of late claims of the bedoun (S/AC.26/Dec.225 (2004)).
12. Decision concerning the continuation of technical assistance to Iraq (S/AC.26/Dec.226 (2004)).
13. Decision concerning the extension of the temporary payment mechanism (S/AC.26/Dec.227 (2004)).